

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 6976

Petition of Entergy Nuclear Vermont Yankee,     )  
LLC for a certificate of public good, pursuant to     )  
30 V.S.A. § 248(j), authorizing the construction     )  
of parking lots totaling 991 spaces and related     )  
access road and security lighting, along with     )  
minor improvements to an existing parking area     )  
by the so-called Governor Hunt House, other     )  
miscellaneous parking and roadway     )  
improvements and the relocation of a certain     )  
portion of the proposed security barrier system,     )  
on the site of its electric generation station in the     )  
Town of Vernon, Vermont     )

Order entered: 3/3/2005

**I. INTRODUCTION**

On June 21, 2004, the Vermont Public Service Board ("Board") received a petition from Entergy Nuclear Vermont Yankee, LLC ("Entergy VY") for a certificate of public good ("CPG") pursuant to 30 V.S.A. § 248(j) to construct two parking lots (the Permanent Parking Area and the Outage Parking Area) and a related access road and security lighting, along with minor improvements to an existing parking area by the so-called Governor Hunt House, other miscellaneous parking and roadway improvements, and the relocation (change in design) of a certain portion of the security barrier system ("SBS") that was approved by the Board in Docket No. 6953 (collectively, the "Entire Project") on the site of its electric generation station, the Vermont Yankee Nuclear Power Plant ("Station" or "Vermont Yankee"), in Vernon, Vermont. Entergy VY proposed to construct all portions of the Entire Project in the fall of 2004, except for the Outage Parking Area, which it plans to construct during the spring or summer 2005 construction period, prior to the fall 2005 refueling outage.

On September 9, 2004, the Board issued an Order that bifurcated the Entire Project into two separate CPG proceedings – one for the Entire Project except for the Outage Parking Area,

and the second for the Outage Parking Area. The Board appointed William Jordan, Utilities Engineer, as Hearing Officer for the Outage Parking Area portion of this docket. The Board's September 9, 2004, Order also granted permissive intervention to the New England Coalition ("NEC"), limited solely to the two issues of alternatives to, and aesthetic impacts of, the Outage Parking Area. On September 21, 2004, the Board issued an Order and Certificate of Public Good ("CPG") approving the Entire Project except the Outage Parking Area.<sup>1</sup> Today's Order and CPG address the Outage Parking Area.

On September 29, 2004, the Board issued a notice of a prehearing conference and site visit to be held on October 7, 2004, to address the alternatives to, and the aesthetic impacts of, the Outage Parking Area. I held the prehearing conference as scheduled at 10:30 a.m. on October 7, 2004, at the Meeting Room of the Vernon Town Offices, located at 567 Governor Hunt Road in Vernon, Vermont. Appearances were entered by those physically present: Geoffrey Commons, Esq., for the Vermont Department of Public Service ("Department"), James Matteau for the Windham Regional Commission, Raymond Shadis for NEC, and Suzanne Monte, Esq., Downs Rachlin Martin PLLC, on behalf of Entergy VY. At the prehearing conference, the parties proposed a schedule to guide the remainder of the proceeding.

I held the site visit as scheduled at 1:00 p.m. on October 7, 2004, and it was attended by all parties in attendance at the prehearing conference. Prior to visiting the location for the proposed Outage Parking Area, Entergy VY showed the parties the location of the alternative "corn field" site, and explained its reasons for not pursuing that alternative.

On November 8, 2004, Entergy VY filed a Settlement Agreement between Entergy VY and NEC ("NEC Settlement Agreement") that resolved the concerns raised by NEC in this docket. Under the terms of the NEC Settlement Agreement, Entergy VY agrees to:

- (a) implement a landscaping plan for the Outage Parking Area (the "Planting Plan," filed by Entergy VY on November 8, 2004, as Exhibit A and as Exhibit Entergy-2);
- (b) eliminate the northern-most light pole and fixture in the Permanent Parking Area;

---

1. The complete procedural history of this docket through September 21, 2004, is contained in the Order of September 21, 2004, and is not repeated here.

- (c) make the following modifications to the lighting plan for the Outage Parking Area:
  - (i) the light fixtures serving the Outage Parking Area will be downcast into the Outage Parking Area,
  - (ii) the light fixtures shall be controlled by photo cells that will activate the lighting only during dusk or dark conditions, and
  - (iii) individual disconnect switches will be installed on each light pole in the Outage Parking Area, and only those lights necessary at any one time to illuminate the Outage Parking Area for parking, maintenance activity or emergency purposes will be used;
- (c) undertake good faith efforts to further adjust or modify any lighting that may prove to be egregiously intrusive to offsite viewing locations;
- (d) continue to respond to questions from the Department regarding possible wetland areas in the Outage Parking Area<sup>2</sup>; and
- (e) reimburse NEC for costs associated with its intervention in this docket.

The NEC Settlement Agreement also states that Entergy VY and NEC "jointly stipulate to the Board that this matter should be approved and a CPG issued by the Board without the need for further discovery or proceedings before the Board."

On November 12, 2004, in response to a discovery request served by the Department, Entergy VY notified the Board that it had identified, at the Outage Parking Area site, an additional wetland area similar to the area identified in the Site Characterization Data Report. Entergy VY filed an updated wetland delineation report, dated November 1, 2004, as Exhibit PB-16. To avoid construction activity in this newly-identified wetland area, Entergy VY indicated in a preliminary, revised site plan (filed as Exhibit Entergy-3) that it planned to relocate the stormwater basin initially proposed for the northeast portion of the Outage Parking Area site to the west side of the newly-identified wetland area, which would result in a loss of 86 parking spaces and deletion of one light pole with two light fixtures from the Outage Parking Area.

Entergy VY also notified the Board on November 12, 2004, that it had extended the limits of stockpiled soils north of the Outage Parking Area beyond the limits designated for stockpiled soils under its Construction General Permit to accommodate trucks and equipment in

---

2. On October 28, 2004, the Department served Entergy VY with discovery requests regarding possible wetland areas in the Outage Parking Area described in the Site Characterization Data Report for the Vernon/Vermont Yankee Site, Volume I--The Report, dated November, 1991, prepared for the Vermont Low Level Radioactive Waste Authority (the "Site Characterization Data Report").

that area. Entergy VY stated that a small portion of such soil (an approximately 720 square foot area of soil less than 18 inches deep) had extended into the newly-identified wetland area, and that Entergy VY had removed the soil that extended into the wetland area, and had re-seeded the area. Entergy VY also stated that it would seek amendments, as applicable, to its Construction General Permit and its Stormwater Discharge Permit from the Vermont Agency of Natural Resources ("ANR") to reflect the extended stockpiled soils and revised Outage Parking Area plan, and that it would file any such amendments with the Board and parties upon receipt.

On November 23, 2004, the Board requested that Entergy VY provide updated information relating to the revised Outage Parking Area. On January 12, 2005, Entergy VY filed a response to the Board's information request, and also filed a final site plan for the Outage Parking Area (exh. Entergy-4), a revised Planting Plan (exh. Entergy-5), revised plans with respect to its Construction General Permit and its Stormwater Discharge Permit (exhs. PB-17 and PB-18, respectively), and a draft proposal for decision for the Outage Parking Area. Entergy VY represents that it filed its revised plans with respect to its Construction General Permit and its Stormwater Discharge Permit with ANR, and that ANR confirmed that amendments are not required to either of these permits.

In its January 12, 2005, filing, Entergy VY waived its right, in accordance with 3 V.S.A. § 811, to review and comment on the Hearing Officer's proposal for decision, if it is consistent in all material respects with the draft proposal for decision Entergy VY filed on January 12, 2005. On January 18, 2005, the Department similarly waived its rights under 3 V.S.A. § 811 to review a proposal for decision that is consistent with Entergy's proposed order. On February 24, 2005, the ANR waived its right to review and comment on the proposal for decision. On February 25, 2005, the Windham Regional Commission waived its right to further comment on the proposal for decision. On February 28, 2005, NEC waived its right, in accordance with 3 V.S.A. § 811, to review and comment on the Hearing Officer's proposal for decision, if it is consistent in all material respects with the draft proposal for decision Entergy VY filed on January 12, 2005.

This matter is ready for decision. I hereby report, pursuant to 30 V.S.A. § 8, the following findings to the Board, and recommend that the Board issue, pursuant to 30 V.S.A. § 248(j), a conditioned CPG for the Outage Parking Area as revised.<sup>3</sup>

## **II. FINDINGS**

### **Project Description**

1. Entergy VY owns and operates Vermont Yankee in Vernon, Vermont, which is an electric generation facility. McElwee pf. at 1.
2. In its original petition filed on June 21, 2004, Entergy VY proposed to construct the Entire Project, which consisted of two new parking lots (herein referred to as the Permanent Parking Area<sup>4</sup> and the Outage Parking Area<sup>5</sup>) and related stormwater improvements, access road and lighting, along with minor improvements to an existing parking area by the so-called Governor Hunt House, other miscellaneous parking and roadway improvements and the relocation (change in design) of a certain portion of the security-barrier system ("SBS") that was approved by the Board on July 8, 2004, in Docket No. 6953. McElwee pf. at 1-5.
3. The Entire Project would be located on land owned by Entergy VY within the Station's Owner Controlled Area ("OCA"). McElwee pf. at 2.

---

3. Throughout the Order and CPG, the "Entire Project" shall mean all components of the project (including the Outage Parking Area) as originally proposed in Entergy VY's petition dated June 18, 2004. Throughout the Order and CPG, the "Project" shall mean only the Outage Parking Area described in Entergy VY's original petition as revised by its filing on January 12, 2005, and minor modifications to the other Station parking areas as described in Entergy VY's January 12, 2005, filing.

4. The Permanent Parking Area is referred to by several names throughout this proceeding. It is referred to as the 326-space "North Parking" area in Exhibit Entergy-1 of Entergy VY's June 18, 2004, petition. The cover letter and revised findings of fact included in Entergy VY's September 15, 2004, filing refer to the North Parking area as the Permanent Parking Area. The cover letter and revised site plan (exh. Entergy-4) included in Entergy VY's January 12, 2005, filing refer to the 327-space "North Parking" area as the Permanent Parking Area. The Permanent Parking Area is referred to as the "Paved Parking Lot" in exhs. PB-17 and PB-18.

5. The Outage Parking Area is referred to by several names throughout this proceeding. It is referred to as the 556-space "North Overflow Parking" area in Exhibit Entergy-1 of Entergy VY's June 18, 2004, petition. The cover letter to Entergy VY's September 15, 2004, filing, as well as the prefiled testimony of David McElwee submitted with the original petition, refer to the North Overflow Parking area as the Outage Parking Area. The cover letter and revised site plan (exh. Entergy-4) included in Entergy VY's January 12, 2005, filing refer to the 452-space "North Overflow Parking" area as the Outage Parking Area. The Outage Parking Area is referred to as the "Gravel Parking Lot" in exhs. PB-17 and PB-18.

4. Prior to construction of the SBS, the number of parking spaces at the Station was approximately 530 spaces. Under Entergy VY's original petition, of these 530 spaces, 403 parking spaces would be lost to accommodate the SBS, leaving approximately 127 existing parking spaces to remain at the Station. McElwee pf. at 2.

5. In its original petition, Entergy VY proposed as part of the Entire Project to configure the total parking at the station as listed below. Exh. Entergy-1.

Permanent Parking Area:	326 spaces
Outage Parking Area:	556 spaces
Main Parking:	26 spaces
Entrance Parking:	28 spaces
Existing Gravel Parking <sup>6</sup> :	55 spaces
<b>Total:</b>	<b>991 spaces</b>

6. After modification of the Outage Parking Area design to avoid construction in a wetland, as depicted in the revised construction plans in Entergy VY's January 12, 2005, filing, Entergy VY proposes as part of the Entire Project to configure the total parking at the station as listed below. Exh. Entergy-4; letter from Suzanne M. Monte, Esq., to Mrs. Susan M. Hudson dated January 11, 2005.

Permanent Parking Area:	327 spaces
Outage Parking Area:	452 spaces
Main Parking:	40 spaces
Entrance Parking:	28 spaces
Existing Gravel Parking:	55 spaces
<b>Total:</b>	<b>902 spaces</b>

7. The Entire Project, as revised, will provide parking at the Station to replace the permanent parking spaces lost due to the SBS, and to add spaces to more efficiently accommodate parking needed for contractors that work at the Station during regularly scheduled outages, which occur approximately every 18 months for approximately 30 days each. During regularly scheduled outages, the number of employees at the Station can increase from the normal operational level of approximately 600 employees working in two shifts, to over 1,000 employees working in two shifts. The 902 spaces are expected to be needed during the transition

---

6. The 55-space Existing Gravel Parking lot is an entirely distinct parking lot from the proposed gravel Outage Parking Area, which is also referred to as the Gravel Parking Lot, as mentioned in the preceding footnote.

period between the night and day shifts. Boemig pf. at 3; McElwee pf. at 2; letter from John H. Marshall, Esq., to Mrs. Susan M. Hudson dated August 25, 2004.

8. The proposed Station parking configuration, as revised, is described in Findings 9 through 19, below, which collectively describe the Project.

9. The new, paved, 327-space Permanent Parking Area is located adjacent to and north of the 345 kV switchyard and generally between the 115 kV and 345 kV switchyards. This area is referred to as the "North Parking" area in exhs. Entergy-1 and Entergy-4, and is referred to as the "Paved Parking Lot" in exhs. PB-17 and PB-18. This parking area has been revised to add one additional space to the 326 spaces proposed in Entergy VY's original petition and approved in the September 21, 2004, Order and CPG. Exhs. Entergy-4, PB-17, PB-18; letter from Suzanne M. Monte, Esq., to Mrs. Susan M. Hudson dated September 14, 2004; letter from Suzanne M. Monte, Esq., to Mrs. Susan M. Hudson dated January 11, 2005.

10. The Permanent Parking Area contains four 30-foot light poles (one pole has a single, 400-watt high pressure sodium downcast light facing into the Permanent Parking Area and three poles have two 400 watt high pressure sodium downcast lights) and two 400-watt high-pressure sodium downcast lights mounted approximately 30 feet above the ground on an existing electrical transmission tower. In accordance with the NEC Settlement Agreement, the lighting of the Permanent Parking Area has been revised to eliminate one 30-foot light pole from the five 30-foot light poles proposed in Entergy VY's original petition and approved in the September 21, 2004, Order and CPG. The access road contains nine 30-foot poles with a single, 400-watt high pressure sodium downcast light facing into the Station on each pole. NEC Settlement Agreement at 2; exh. PB-17 (Sheets 7-11); letter from Suzanne M. Monte, Esq., to Mrs. Susan M. Hudson dated September 14, 2004.

11. The proposed gravel, 452-space Outage Parking Area would be constructed on a field immediately adjacent to and north of the Permanent Parking Area. The Outage Parking Area is referred to as the "North Overflow Parking" on exhs. Entergy-1 and Entergy-4, and as the "Gravel Parking Lot" in exhs. PB-17 and PB-18. To avoid construction in the newly-identified wetland area, the Outage Parking Area has been revised to eliminate 104 parking spaces from the 556 parking spaces proposed in Entergy VY's original petition. The Outage Parking Area will

generally not be used for parking during the Station's normal operations, and will therefore generally be used for approximately 30 days every 18 months. McElwee pf. at 2; exhs. Entergy-4, PB-17, PB-18; letter from Suzanne M. Monte, Esq., to Mrs. Susan M. Hudson dated January 11, 2005.

12. The revised total area of impervious surface proposed for the Entire Project is approximately 7.95 acres, of which approximately 6.59 acres is new impervious surface, and approximately 1.36 acres is redeveloped existing impervious surface. The total area of impervious surface proposed for the Outage Parking Area is approximately 3.32 acres, all of which would be new impervious surface. Letter from Suzanne M. Monte, Esq., to Mrs. Susan M. Hudson dated January 11, 2005.

13. The Outage Parking Area will contain seven 20-foot light poles (one pole will have a single, 400-watt high pressure sodium downcast light and six poles will have two 400-watt high pressure sodium downcast lights). Letter from Suzanne M. Monte, Esq., to Mrs. Susan M. Hudson dated January 11, 2005; exh. PB-17 (Sheets 11 & 12).

14. The light fixtures serving the Outage Parking Area will be controlled by photo cells that will activate the lighting only during dusk or dark conditions. Each light pole serving the Outage Parking Area will have an individual disconnect switch, and only those lights necessary for parking, maintenance or emergency purposes will be activated at any time. NEC Settlement Agreement at 2; letter from Suzanne M. Monte, Esq., to Mrs. Susan M. Hudson dated November 5, 2004.

15. Each light pole in the Outage Parking Area will be installed on a concrete foundation. Trenching will be performed between the light poles and existing buildings and structures to bring power to the lights. The trenching areas will be backfilled and regraded as the necessary conduit and cabling are installed. McElwee pf. at 5; Boemig pf. at 12-13.

16. The closest neighbor's house to the Outage Parking Area lighting will be approximately 770 feet away. Letter from Suzanne M. Monte, Esq., to Mrs. Susan M. Hudson dated January 11, 2005.

17. In accordance with the NEC Settlement Agreement, Entergy VY proposes to landscape the Outage Parking Area as depicted on the Revised Planting Plan. NEC Settlement Agreement



at 2; exh. Entergy-5; letter from Suzanne M. Monte, Esq., to Mrs. Susan M. Hudson dated January 11, 2005.

18. Entergy VY plans to construct the Outage Parking Area during the spring/summer 2005 construction period so that it will be completed prior to the 2005 fall refueling outage. McElwee pf. at 5; exh. PB-17.

19. Forty spaces remain west of the SBS in what remains of the Main Parking Area. This parking area has been revised to add 14 additional spaces to the 26 spaces proposed in Entergy VY's original petition and approved in the September 21, 2004, Order and CPG. Exhs. Entergy-1 and Entergy-4.

20. The existing entrance parking lot (also referred to as the Governor Hunt House Lot) contains 28 spaces. This parking area has not been revised from what was proposed in Entergy VY's original petition and approved in the September 21, 2004, Order and CPG. McElwee pf. at 3; exh. Revised Entergy-1; exh. Entergy-4; letter from John H. Marshall, Esq., to Mrs. Susan M. Hudson dated August 25, 2004.

21. An existing gravel parking area of 55 spaces west of the 345 kV switchyard remains. This parking area has not been revised from what was proposed in Entergy VY's original petition and approved in the September 21, 2004, Order and CPG. McElwee pf. at 3; exhs. Entergy-1 and Entergy-4.

### **Orderly Development of the Region**

[30 V.S.A. § 248(b)(1)]

22. The Project will not unduly interfere with the orderly development of the region, with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. This finding is supported by Findings 23 through 36, below.

23. By letter dated June 10, 2004, Entergy VY provided the Town of Vernon Planning Commission with plans for the construction of the Entire Project as required by subsection 248(f). McElwee pf. at 6.

24. By letter dated June 15, 2004, the Vernon Planning Commission stated that it had agreed to waive the 45-day notice pursuant to § 248(f) and had determined that the Entire Project will not unduly interfere with the orderly development of the region or overburden municipal and governmental services in the Town of Vernon. McElwee pf. at 6; exh. DM-3.

25. At its meeting held on June 7, 2004, the Vernon Selectboard voted that the Entire Project will not unduly interfere with the orderly development of the region and will not overburden municipal and governmental services in the Town of Vernon. McElwee pf. at 6; Boemig pf. at 11; exh. DM-2.

26. The Vernon Town Plan, which was adopted on November 3, 2003, was intended to be a policy document that provides guidelines to ensure that decisions made at the local, regional and state levels are in concert with the values and goals expressed in the plan. McElwee pf. at 6-7; exh. DM-4 at 2.

27. The Vernon Town Plan specifically cites the Station, its contribution to the community's tax base, and its provision of varied employment opportunities as being largely responsible for Vernon's rural independence and self-sufficiency. McElwee pf. at 7; exh. DM-4 at 17.

28. The Vernon Town Plan states the town's policy to encourage land uses that help to protect river corridors, scenic highways and roads, scenic views and other scenic resources. McElwee pf. at 7; exh. DM-4 at 33.

29. The Project will not adversely affect river corridors, scenic highways and roads, scenic views or other scenic resources. The Project will be sited near Entergy VY's electric generation facility, which is industrial in character. Entergy VY will maintain, in full, the existing buffer of mature trees between the Project and the Connecticut River, and the existing screen of trees between the Project and Governor Hunt Road. The Project is not located on a scenic highway or road. McElwee pf. at 7-8; Boemig pf. at 13; exhs. Entergy-4, PB-17 (Sheet 10 of 17); letter from Suzanne M. Monte, Esq., to Mrs. Susan M. Hudson dated September 14, 2004.

30. On June 9, 2004, Entergy VY provided the Windham Regional Commission with plans for the Entire Project as required by Section 248(f). McElwee pf. at 8.

31. By letter dated June 15, 2004, Mr. James P. Matteau, Executive Director of the Windham Regional Commission, responded that the Entire Project will not have an adverse

aesthetic effect and will not unduly interfere with the orderly development of the region. The Windham Regional Commission further waived the 45-day, pre-application review allowed under subsection 248(f). McElwee pf. at 8; exh. DM-5.

32. The Windham Regional Plan, adopted in December 2001, is intended to provide continuing guidance for change in the Windham region. McElwee pf. at 8; exh. DM-6 at 2.

33. The Windham Regional Plan is intended to be used by the Windham Regional Commission, town planning commissions, selectboards, state agencies, landowners and citizens to provide guidance for local planning and development initiatives, guide basic decisions for planning programs at the Windham Regional Commission, serve as a basis for evaluation and review of developments and subdivisions proposed under Act 250, and assist in determining compatibility of agency plans affecting land use with regional and local planning and development priorities. McElwee pf. at 8; exh. DM-6 at 3.

34. The Windham Regional Plan acknowledges the significant role the Station plays in providing 33% of Vermont's annual electrical requirements at the time the Plan was drafted. Vermont Yankee provides 38 percent and 36 percent of the electricity supplied to Vermont customers by Central Vermont Public Service Corporation ("CVPS") and Green Mountain Power Corporation ("GMP"), respectively. McElwee pf. at 9; exh. DM-6 at 65.

35. The Windham Regional Plan references the 1999 Vermont Yankee Economic Study conducted by the Vermont Department of Public Service, which found that in the mix of power supplies for CVPS and GMP, Vermont Yankee is the lowest-cost, long-term supply. McElwee pf. at 9; exh. DM-6 at 65.

36. The Project is consistent with the policies of the Vernon Town Plan and the Windham Regional Plan. McElwee pf. at 9.

**Need for Present and Future Demand for Service**

[30 V.S.A. § 248(b)(2)]

37. The Project will not affect power generation or transmission, and therefore this criterion is not applicable. McElwee pf. at 9-10.

**System Stability and Reliability**

[30 V.S.A. § 248(b)(3)]

38. Because the Station and the transmission lines that serve it will not change if the Project is constructed, system stability and reliability will not be affected. McElwee pf. at 10.

**Economic Benefit to the State and Its Residents**

[30 V.S.A. § 248(b)(4)]

39. The Project will not result in an adverse economic effect, and has the potential to result in an economic benefit, to the state and its residents. This finding is supported by Findings 40 through 49, below.

40. The Project represents a substantial capital investment in Vermont that will be entirely borne by Entergy VY. McElwee pf. at 10.

41. Entergy VY considered several alternatives to the Project and determined that the proposed location and design are the most cost-effective and appropriate to meet Entergy VY's parking needs including the need to accommodate contractors who work at the Station during regularly-scheduled outages that occur approximately every 18 months and last for approximately 30 days. McElwee pf. at 3, 10-11.

42. The Project indirectly enhances security by making it possible to construct a portion of the SBS over existing parking facilities, including parking areas used by outage contractors. McElwee pf. at 3, 11.

43. Recognizing the benefits of increased security for the Station (which, as previously found, is a committed resource supplying one-third of Vermont's electric supply), the Project will provide an economic benefit to the state and its residents. McElwee pf. at 11.

44. One of the alternative locations considered by Entergy VY was the cornfield between the Station and neighboring properties along the Governor Hunt Road, which would have provided more convenient parking access to the Station. McElwee pf. at 11.

45. Entergy VY sent letters to neighbors along the Governor Hunt Road, as well as members of the Vernon Elementary School Board and the Vernon Selectboard, and held a meeting with neighbors along Governor Hunt Road to discuss the proposed parking plan in the cornfield location. McElwee pf. at 11.

46. At the meeting neighbors identified a concern that the cornfield location could potentially cause adverse aesthetic and traffic impacts. McElwee pf. at 11.

47. The cornfield location would also remove more productively and currently farmed agricultural lands from future production than the proposed location of the Project. McElwee pf. at 11.

48. The Project as proposed avoids additional direct and indirect costs associated with the cornfield location. McElwee pf. at 11.

49. Entergy VY held a follow-up meeting with neighbors to present the Project as now proposed, at which all neighbors in attendance expressed general support for the Project. McElwee pf. at 11-12.

**Aesthetics, Historic Sites, Air and Water Purity,**  
**the Natural Environment and Public Health and Safety**

[30 V.S.A. § 248(b)(5)]

50. The Project will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment and the public health and safety. This finding is supported by findings 51 through 128 below, which are based on the criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8), 8(A) and (9)(K).

**Public Safety**

51. The Chief of the Vernon Fire Department and the Chief of the Vernon Police Department have reviewed the Entire Project plans and determined that the Entire Project will not have an adverse effect on the public health and safety. McElwee pf. at 12; exhs. PB-5, PB-6.

**Outstanding Resource Waters**

[10 V.S.A. § 1424(a)(d)]

52. The Project will not be located on or near any segment of any outstanding resource waters, as defined by the Vermont Water Resources Board. Boemig pf. at 2; exh. PB-2.

**Air and Water Pollution**

[10 V.S.A. § 6086(a)(1)]

53. The Project as proposed will not result in undue air or water pollution. This finding is supported by Findings 54 through 83, below.

54. The Project will not cause air pollution levels that create a threat to public health or a nuisance for nearby neighbors. There will be no sources of emissions other than minimal dust during construction. Boemig pf. at 3-4.

55. Dust will be controlled during construction by quickly seeding and mulching non-roadway areas when completed, and through the use of water spray trucks as necessary. Boemig pf. at 4.

56. The Entire Project (including the Permanent Parking Area) will add an additional 372 net parking spaces, resulting in a total Station parking capacity of 902 vehicles, which is less than the 1,000 space threshold for an indirect source permit under Section 5-503 of the Vermont Air Pollution Control Regulations. Finding 6; Boemig pf. at 4; exh. Entergy-4; letter from Suzanne M. Monte, Esq., to Mrs. Susan M. Hudson dated January 11, 2005.

#### **Headwaters**

[10 V.S.A. § 6086(a)(1)(A)]

57. The Project is not in a headwaters area. This finding is supported by Findings 58 through 62, below.

58. The Project area is not in the headwaters of watersheds as characterized by steep slopes and shallow soils. Boemig pf. at 4.

59. The Project area is not in an area that has a drainage area of 20 square miles, or less. Boemig pf. at 4-5.

60. The Project area is not over 1,500 feet in elevation. The Project area elevation is between 252 feet and 263 feet above sea level. Boemig pf. at 5.

61. The Project area is not in a watershed of a public water supply designated by the Vermont Department of Health. Boemig pf. at 5.

62. The Project area is not a significant aquifer recharge area. Boemig pf. at 5.

#### **Waste Disposal**

[10 V.S.A. § 6086(a)(1)(B)]

63. The Project will not generate industrial or manufacturing wastewater, chemicals, pesticides, batteries, radiation, hazardous wastes or any other harmful or toxic substances. Boemig pf. at 5.

64. The Project will not involve the injection of waste materials or any harmful or toxic substances into groundwater or wells. Boemig pf. at 5.

65. The total area of impervious surface proposed for the Entire Project is approximately 7.95 acres, of which approximately 6.59 acres is new impervious surface, and approximately 1.36 acres is redeveloped existing impervious surface. The total area of impervious surface proposed for the Outage Parking Area is approximately 3.32 acres, all of which is new impervious surface. Letter from Suzanne M. Monte, Esq., to Mrs. Susan M. Hudson dated January 11, 2005.

66. Entergy VY applied to the ANR for a Stormwater Discharge Permit for the Entire Project. On September 15, 2004, Entergy VY filed the Stormwater Discharge Permit issued by the ANR for the Entire Project. On December 28, 2004, Entergy VY filed revised plans for the Project with ANR. Entergy VY represents that ANR has confirmed that amendments are not required for its Stormwater Discharge Permit. Exhs. PB-15, PB-18; letter from Suzanne M. Monte, Esq., to Mrs. Susan M. Hudson dated January 11, 2005.

#### **Water Conservation**

[10 V.S.A. § 6086(a)(1)(C)]

67. The Project will not have water-supply or wastewater connections, and therefore no additional water will be used as a result of the Project. Boemig pf. at 6.

#### **Floodways, Streams, and Shorelines**

[10 V.S.A. §§ 6086(a)(1)(D), (E) &(F)]

68. The Project site is outside of the 100-year floodway and outside of the floodway fringe. Boemig pf. at 6; exh. PB-3.

69. The Project as proposed will have no impact on the natural condition of the Connecticut River or its shoreline. This finding is supported by Findings 70 through 74, below.

70. There are no streams in the Project area. The closest river shoreline is the Connecticut River. Boemig pf. at 7.

71. At its closest point, the Project will be located more than 500 feet from the Connecticut River's riverbank. No construction will occur within 500 feet of the riverbank. Exhs. Entergy-4, PB-17, PB-18.

72. The Project will have no impact on the natural condition of the Connecticut River, its shoreline, vegetation or stability. Boemig pf. at 7.

73. The Station is a secure site, so no access to the water for recreation is presently provided from the property. Boemig pf. at 7.

74. The visual character of the Project site will be in keeping with the industrial nature and existing lighting of the Station. In addition, the existing vegetation along the riverbank will provide some screening from the Connecticut River. Boemig pf. at 7.

### **Wetlands**

[10 V.S.A. § 6086(a)(1)(G)]

75. Based on a review of the National Wetlands Inventory Mapping, there are no Class I or Class II wetlands in the area of the Project. Boemig pf. at 7; exh. PB-4.

76. There are several un-mapped or Class III wetland areas involved in the Project site. Boemig pf. at 8; exh. PB-7.

77. The Department identified a possible wetland area in the vicinity of the Outage Parking Area as described in the Site Characterization Data Report for the Vernon/Vermont Yankee Site, Volume I—The Report, dated November, 1991, prepared for the Vermont Low Level Radioactive Waste Authority (the "Site Characterization Data Report"). Letter from Geoffrey Commons, Esq., to Suzanne M. Monte, Esq., of 10/28/04.

78. Entergy VY's environmental consultant, Valley Environmental Services, reviewed the site and in its November 1, 2004, Wetland Delineation Report ("VES Wetland Delineation Report") identified a wetland area similar to the area identified in the Site Characterization Data Report. Letter from Suzanne M. Monte, Esq., to Mrs. Susan M. Hudson dated November 11, 2004; exhs. PB-16, Entergy-3.

79. Entergy VY revised the Outage Parking Area design to move the stormwater basin initially proposed for the northeast portion of the Project site to the west side of the wetland area identified in the VES Wetland Delineation Report. Letter from Suzanne M. Monte, Esq., to Mrs. Susan M. Hudson dated November 11, 2004.

80. To accommodate trucks and equipment working in the area, Entergy VY had extended stockpiled soil into the wetland area beyond the area designated for stockpiled soils under the



Construction General Permit. Entergy VY has removed the soil from the wetland area and re-seeded the area. Letter from Suzanne M. Monte, Esq., to Mrs. Susan M. Hudson dated November 11, 2004.

81. To provide proper drainage to the stormwater basin, Entergy VY's final design includes approximately 20 feet of 12-inch drainage pipe that extends across the above-described wetland area to the existing drainage pipe headwall. Letter from Suzanne M. Monte, Esq., to Mrs. Susan M. Hudson dated November 11, 2004, fn.2.

82. The Wetlands Division of ANR has confirmed that it has no wetland concerns with the final design that would warrant a site visit or additional review. Exh. PB-19.

83. The final design of the Project will impact less than 3,000 square feet of the Class III wetland areas. Therefore, the Project activity is covered under U.S. Army Corps of Engineers Vermont General Permit #58 without the need for further permitting. Boemig pf. at 8; letter from Suzanne M. Monte, Esq., to Mrs. Susan M. Hudson dated January 11, 2005, fn.2.

### **Discussion**

As stated in Finding 80, Entergy VY extended stockpiled soil beyond the area designated for stockpiled soils under the Construction General Permit to accommodate trucks and equipment working in the area. A portion of this soil extended into the wetland area east of the proposed Outage Parking Area, and Entergy VY has removed the soil from the wetland area and re-seeded the area. From the information contained in Entergy VY's November 12, 2004, filing, it is apparent that the extension of soil occurred prior to the delineation of the wetland in the area. Notwithstanding the wetland issue, the extension of stockpiled soils was in violation of Entergy VY's Construction General Permit issued for the Entire Project, and therefore in violation of the Board's CPG issued for the Entire Project on September 21, 2004. This fact should not go unmentioned, especially in the context of other violations<sup>7</sup> that have occurred at the Station. However, there are two mitigating circumstances to this issue. First, Entergy VY promptly removed the soil from the wetland, reseeded the area, and notified the Board. Second, Entergy VY revised the Erosion Prevention & Sedimentation Control Plan ("EPSCP") for the Outage Parking Area to indicate an enlarged area for stockpiled soils, the limits of which are adjacent to,

---

7. See PSB Docket No. 6812, Order of 2/18/05.

but not within, the wetland. Entergy VY submitted this revised EPSCP to ANR, and Entergy VY represents that ANR confirmed that amendments to the Construction General Permit are not required. Based upon these mitigating circumstances, I do not recommend that the Board impose sanctions for this violation. However, I do recommend that the Board invite interested parties to comment on this issue.<sup>8</sup>

**Sufficiency of Water and Burden on Existing Water Supply**

[10 V.S.A. §§ 6086(a)(2)&(3)]

84. These criteria are not applicable because the Project does not require water supply or wastewater connections. Boemig pf. at 8.

**Soil Erosion**

[10 V.S.A. § 6086(a)(4)]

85. The Project as designed will not result in unreasonable soil erosion or reduce the capacity of the land to hold water so that a dangerous or unhealthy condition may result. This finding is supported by Findings 86 through 91, below.

86. The Project site is relatively flat, and there are no drainage ways or streams around the construction site. Therefore, the risk of environmental damage due to erosion is minimal. Boemig pf. at 8.

87. Entergy VY applied to the ANR for a Construction General Permit for stormwater discharges from the Entire Project during construction. On September 7, 2004, Entergy VY filed the Construction General Permit issued by ANR for the Entire Project. On December 29, 2004, Entergy VY filed revised plans for the Project with ANR. Entergy VY represents that ANR has confirmed that amendments are not required for its Construction General Permit. Exhs. PB-12, PB-17; letter from Suzanne M. Monte, Esq., to Mrs. Susan M. Hudson dated January 11, 2005.

88. To accommodate trucks and equipment working in the area, Entergy VY had extended stockpiled soil into the wetland area beyond the area designated for stockpiled soils under the Construction General Permit. Entergy VY has removed the soil from the wetland area and re-

---

8. I recognize that the issue of the extension of stockpiled soils beyond the limits approved by the Construction General Permit was not addressed in the Settlement Agreement reached in this proceeding.

seeded the area. Letter from Suzanne M. Monte, Esq., to Mrs. Susan M. Hudson dated November 11, 2004; *see* Discussion after 10 V.S.A. § 6086(a)(1)(G), above.

89. Changes in stormwater runoff caused by the Project will be addressed in accordance with the current ANR requirements for stormwater runoff, which include providing treatment of the prescribed water volume, providing infiltration of the required groundwater recharge volume (of stormwater), and checking affected stormwater pathways to ensure any changes in runoff rate will not cause an erosive condition downstream. Stormwater treatment methods include the use of grassy swales, infiltration basins, and stormwater ponds. Boemig pf. at 9.

90. The total area of impervious surface proposed for the Entire Project is approximately 7.95 acres, of which approximately 6.59 acres is new impervious surface, and approximately 1.36 acres is redeveloped existing impervious surface. The total area of impervious surface proposed for the Outage Parking Area is approximately 3.32 acres, all of which is new impervious surface. Letter from Suzanne M. Monte, Esq., to Mrs. Susan M. Hudson dated January 11, 2005.

91. By following the methods outlined in the Erosion Prevention Sediment Control Plan submitted as part of the Construction General Permit application, the potential for discharge of sediment or erosion of the Project area will be minimized. Boemig pf. at 9; exhs. Entergy-4, PB-17.

### **Transportation Systems**

[10 V.S.A. § 6086(a)(5)]

92. The Project will not cause unreasonable congestion or unsafe conditions with respect to local highways, which are the only affected transportation facilities. This finding is supported by Findings 93 through 95, below.

93. Aside from a limited temporary increase in construction vehicles during construction, the Project's limited traffic – similar to, but far less than, traffic during a scheduled outage – will not cause unusual congestion or unsafe transportation conditions. Boemig pf. at 10.

94. The Entire Project will improve traffic flow to and from the Station by separating employee traffic from delivery vehicle traffic and by providing a separate exit lane that bypasses the area where vehicles can be checked. Boemig pf. at 10.

95. Access from Governor Hunt Road to the Station will remain unchanged from the existing access. Boemig pf. at 10.

#### **Educational Services**

[10 V.S.A. § 6086(a)(6)]

96. The Project will have no impact on educational services. It will not change employment at Vermont Yankee nor, therefore, the number of children to be educated in the area. Boemig pf. at 10.

#### **Municipal Services**

[10 V.S.A. § 6086(a)(7)]

97. The Project will have no impact on the ability of the Town of Vernon to provide municipal services. This finding is supported by Findings 98 through 103, below.

98. The Entire Project has been reviewed with the Vernon Fire Chief, the Vernon Police Chief and the Vernon Selectboard. The only comment received during these reviews was from the Fire Chief requesting an extension of the existing dry pipe fire line from the plant security fence to the west side of the SBS near the Plant Support Building. Entergy VY incorporated the Fire Chief's request into the design of the Entire Project. Boemig pf. at 11; exhs. Entergy-1, Entergy-4.

99. Other than the one comment received from the Fire Chief, the Vernon Fire and Police Departments have found that (i) they can provide adequate fire and police protection to the Entire Project without overburdening the Departments, and (ii) the Entire Project will not have an undue, adverse effect on the public health and safety. Boemig pf. at 11; exhs. PB-5, PB-6.

100. At its June 7, 2004, meeting, the Vernon Selectboard voted that the Entire Project will not interfere with the orderly development of the region and will not overburden municipal services. McElwee pf. at 6; Boemig pf. at 11; exh. DM-2.

101. The Project will not require municipal sewer or water supply services. Boemig pf. at 11.

102. Vermont Yankee proposes no new public road construction for the Project. Boemig pf. at 11.

103. The Town of Vernon will not be required to provide any additional road maintenance services as a result of the Project. Boemig pf. at 11.

**Aesthetics, Historic Sites and Rare and Irreplaceable Natural Areas**

[10 V.S.A. § 6086(a)(8)]

104. The proposed project will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas. This finding is supported by Findings 105 through 121, below.

105. Most of the Project will be located between 252 feet and 263 feet above sea level, which is approximately ten to eighteen feet below the elevation of Governor Hunt Road. Boemig pf. at 13-14.

106. The Project will be sited near Entergy VY's electric generation facility, which is industrial in character. Entergy VY will maintain, in full, the existing buffer of mature trees between the Project and the Connecticut River, and the existing screen of trees between the Project and Governor Hunt Road. McElwee pf. at 7-8; Boemig pf. at 13; exhs. Entergy-4, PB-17 (Sheet 10 of 17); letter from Suzanne M. Monte, Esq., to Mrs. Susan M. Hudson dated September 14, 2004.

107. Existing trees along the OCA fence line will provide some screening for that portion of the Project that is located at a slightly higher elevation than Governor Hunt Road. Boemig pf. at 14.

108. Existing vegetation will provide some screening for the Project from other buildings in the area, especially during the summer months. Boemig pf. at 16.

109. Entergy VY has agreed to install landscaping as set forth in the plan entitled "Security Barrier and Lighting Project Planting Plan Gravel Parking Lot 'B' Entergy Nuclear, Vermont Yankee, LLC, Vernon Vermont" dated November 3, 2004, by SVE Associates, as revised on December 22, 2004, and filed by Entergy VY on January 11, 2005 (the "Revised Planting Plan"). NEC Settlement Agreement at 2; exh. Entergy-5; letter from Suzanne M. Monte, Esq., to Mrs. Susan M. Hudson dated January 11, 2005.

110. The light fixtures serving the Outage Parking Area will downcast and will be controlled by photo cells that will activate the lighting only during dusk or dark conditions. Each light pole serving the Outage Parking Area will have an individual disconnect switch, and only those lights necessary for parking, maintenance or emergency purposes will be activated at any time. NEC

Settlement Agreement at 2; letter from Suzanne M. Monte, Esq., to Mrs. Susan M. Hudson of dated November 5, 2004; letter from Suzanne M. Monte, Esq., to Mrs. Susan M. Hudson dated January 11, 2005.

111. The additional lighting from the Project will not substantially increase the amount or impact of lighting already visible from outside the Station site. McElwee pf. at 5; Boemig pf. at 13.

112. The additional lighting from the Project will be marginally visible from Governor Hunt Road. Boemig pf. at 15.

113. The adjacent and visually dominant nuclear power Station is industrial in character and is well lit. Boemig pf. at 14.

114. The Project's design will be compatible with the appearance of the generating station. Boemig pf. at 15.

115. The Project does not violate a clear, written community standard intended to preserve the aesthetic and scenic or natural beauty of the area. It complies with the scenic resources policies of the Vernon Town Plan and the Windham Regional Plan. Boemig pf. at 15; McElwee pf. at 6-9.

116. The Project will not offend the sensibilities of the average person, when taking into account the visual dominance of the Station and the developed character of the nearby area. Boemig pf. at 15.

117. Entergy VY has taken generally available mitigating steps to improve the harmony of the proposed Project with its surroundings, including maintaining the existing buffer of trees between the parking lot and Governor Hunt Road and between the parking lot and the Connecticut River, adopting the Revised Planting Plan, and limiting the lighting to be installed to the extent necessary to provide visibility and security for the Project, including limiting the number of light poles and fixtures, installing photo cells that will activate the lighting in the Outage Parking Area only during dusk or dark conditions, and installing individual disconnect switches on each Outage Parking Area light pole so that only those lights necessary for parking, maintenance or emergency purposes will be activated at any time. Boemig pf. at 16; NEC Settlement Agreement at 2; exh. Entergy-5; letter from Suzanne M. Monte, Esq., to Mrs. Susan

M. Hudson dated November 5, 2004; letter from Suzanne M. Monte, Esq., to Mrs. Susan M. Hudson dated January 11, 2005.

118. Some of the site of the Project was extensively disturbed during the construction of the Station in the early 1970s and has been actively used for high-tension towers, stormwater lines, access roads, a rail line and storage of materials. Boemig pf. at 16-17.

119. In 1991, Entergy VY's predecessor, Vermont Yankee Nuclear Power Corporation, commissioned a Phase I Cultural Resource Investigation by Hanson Engineers Incorporated ("Hanson Engineers") for the purpose of evaluating the construction of a low-level radioactive waste disposal facility in a larger area that included the proposed parking area; the proposed parking area is encompassed largely within the study area designated as Area V in the 1991 Phase I Cultural Resources Study. Boemig pf. at 17; exh. PB-8 at 5-2.

120. Shovel probe excavations conducted by Hanson Engineers indicated that significant cutting and filling has occurred across Area V, and that construction of the various improvements in Area V have altered the ground surface and compromised any cultural resources that may have been present in Area V. Boemig pf. at 17; exh. PB-8 at 5-3.

121. The portion of the parking area and access road not subject to the 1991 Phase I Cultural Resources Study has been the source of even greater construction activity and use over the years of the Station's construction and operation. Boemig pf. at 17.

---

### **Discussion**

Based on the above findings, I find that the proposed Project will not have an undue adverse effect on the aesthetics or scenic and natural beauty of the area. In reaching this conclusion, I have relied on the Environmental Board's methodology for determination of "undue" adverse effects on aesthetics and scenic and natural beauty as outlined in the so-called Quechee Lakes decision. Quechee Lakes Corporation, #3W0411-EB and 3W0439-EB, dated January 13, 1986.

As required by this decision, it is first appropriate to determine if the impact of the Project will be adverse. The Project would have an adverse impact on the aesthetics of the area if its design is out of context or not in harmony with the area in which it is located. If it is found that the impact would be adverse, it is then necessary to determine that such an impact would be

"undue." Such a finding would be required if the Project violates a clear written community standard intended to preserve the aesthetics or scenic beauty of the area, if it would offend the sensibilities of the average person, or if generally available mitigating steps would not be taken to improve the harmony of the Project with its surroundings. The Board's assessment of whether a particular project will have an "undue" adverse effect based on these standards should be significantly informed by the overall societal benefits of the project.<sup>9</sup>

The proposed Project will not have an adverse effect on the aesthetics of the area. The Project involves the construction of a gravel parking lot and associated security lighting to be used during periodic outages at the nuclear-power Station, which is already industrial in character and contains concrete and metal siding with transmission lines, towers and substations. The proposed facilities will be constructed adjacent to the generating station facilities. The Project will not create an adverse impact because the Station is currently well lit, the parking lot and its lighting will be screened from the Connecticut River and from Governor Hunt Road by existing, mature vegetation and by vegetation to be planted, and the lights will only be used when needed.

Even if the Project did have an adverse aesthetic impact, such impact would not be undue. The Project does not violate a clear, written community standard, is not shocking or offensive, and Entergy VY has proposed generally available mitigating steps to improve the harmony of the Project with its surroundings. The Town of Vernon Planning Commission and the Windham Regional Commission were notified of the proposed Project and did not recommend any changes to the proposal. The Project is proposed adjacent to the existing Station facilities, and the Project's presence will not be shocking and will not offend the sensibilities of the average person. Entergy VY proposes generally available mitigation measures, including the maintenance of the existing buffers of trees between the Project and Governor Hunt Road and between the Project and the Connecticut River, implementation of the Revised Planting Plan, and the lighting to be installed will be downcast and is limited to the extent necessary to provide visibility and security for the new parking area.

---

9. Docket 6884, Order of 4/21/04 at 20-21.



**Necessary Wildlife Habitat and Endangered Species**

[10 V.S.A. § 6086(a)(8)(A)]

122. There are no known occurrences of rare, threatened or endangered species in the Project area, and critical wildlife habitat will not be adversely affected by the Project. Mr. Everett Marshall of the Vermont Fish and Wildlife Nongame and Natural Heritage Program reviewed the Entire Project for potential impacts to rare, threatened and endangered species and indicated that he does not anticipate any impacts from the Entire Project. Boemig pf. at 16-18; exh. PB-9.

**Development Affecting Public Investments**

[10 V.S.A. § 6086(a)(9)(K)]

123. The Project will not unnecessarily or unreasonably endanger the public or quasi-public investments in any governmental or public-utility facilities, services, or lands, or materially jeopardize or interfere with the function, efficiency, or safety of, or the public's use or enjoyment of or access to, such facilities, services, or lands. This finding is supported by Findings 124 through 128, below.

124. The most significant public-utility facility is Entergy VY's electric generating Station, and the Station will be enhanced by the Project. Boemig pf. at 18.

125. The Entire Project is located approximately 1,100 feet away from New England Central Railroad mainline and will not affect that facility. Boemig pf. at 18.

126. The Project will have minimal effect on the Connecticut River as the majority of the Project will be located more than 500 feet away from the riverbank and will have limited, if any, scenic impact and no water-quality impact on the river. Exh. Entergy-4.

127. The Entire Project is located approximately 1,000 feet from the Vernon dam and will have no effect on the hydroelectric station located at the dam. Boemig pf. at 18.

128. The construction and use of the Project will have no permanent traffic impact on state or local highways and a very limited impact during construction. Boemig pf. at 18.

**Least-Cost Integrated Resource Plan**

[30 V.S.A. § 248(b)(6)]

129. As a wholesale utility that does not distribute electricity to the public, Entergy VY has not been required to prepare or submit for approval an integrated resource plan (or "IRP"). McElwee pf. at 17; *see* Docket No. 6812, Order of 3/15/04.

**Compliance with Electric Energy Plan**

[30 V.S.A. § 248(b)(7)]

130. Vermont's Electric Energy Plan, dated December 1994, does not specifically mention the Project, but in general it treats the Station as a committed resource and encourages Vermont's utilities to minimize their cost of service. McElwee pf. at 13.

131. The Plan states (at page 2-1) that "[a] utility must at a minimum provide, and carry out the planning necessary to continue providing, adequate services at reasonable prices, meeting industry standards for reliability and quality of service." McElwee pf. at 13.

132. On September 15, 2004, Entergy VY filed a letter issued by the Department on August 10, 2004, which stated that, in accordance with 30 V.S.A. § 202(f), the Entire Project is consistent with the 1994 *Vermont Twenty-Year Electric Plan*.

**Outstanding Resource Waters**

[30 V.S.A. § 248(b)(8)]

133. The Project will not be located on or near any segment of any outstanding resource waters, as defined by the Vermont Water Resources Board. Boemig pf. at 2; exh. PB-2.

**Waste to Energy Facilities**

[30 V.S.A. § 248(b)(9)]

134. The Project is not a waste-to-energy facility, and therefore this criterion is not applicable. McElwee pf. at 13-14.

**Existing or Planned Transmission Facilities**

[30 V.S.A. § 248(b)(10)]

135. The Project does not require access to or use of transmission facilities, and therefore this criterion is not applicable. McElwee pf. at 14.

### **III. SUMMARY AND CONCLUSION**

Based upon all the above evidence, the site preparation for, and installation of, the Outage Parking Area at the Vermont Yankee Nuclear Power Plant in Vernon, Vermont:

- (a) would not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions, and the recommendations of the municipal legislative bodies;
- (b) would not affect electric generation or transmission capability or demand, and therefore, the requirement to meet the need for present and future demand for service which could not otherwise be provided in a more cost-effective manner through energy conservation programs and measures and energy efficiency and land management measures is not applicable;
- (c) would not adversely affect system stability and reliability;
- (d) would result in an economic benefit to the state and its residents;
- (e) would not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment and the public health and safety, with due consideration having been given to the criteria specified in 10 V.S.A. § 1424a(d) and §§ 6086(a)(1) through (8) and (9)(K);
- (f) is consistent with the principles of least-cost integrated resource planning;
- (g) is in compliance with the electric energy plan approved by the DPS under § 202 of Title 30 V.S.A.;
- (h) does not involve a facility affecting or located on any segment of the waters of the State that has been designated as outstanding resource waters by the Water Resources Board;
- (i) does not involve a waste-to-energy facility; and
- (j) would not affect electric generation or transmission capability or demand, and therefore, the requirement that the construction can be served economically by existing or planned transmission facilities without undue adverse effect on Vermont utilities or customers is not applicable.

Based upon all of the above evidence, I conclude that the Project will be of limited size and scope, the petition does not raise a significant issue with respect to the substantive criteria of 30 V.S.A. § 248, the public interest is satisfied by the procedures authorized by 30 V.S.A. § 248(j), and the proposed Project will promote the general good of the state.

All parties have waived their rights under 3 V.S.A. § 811 to file written comments or present oral argument with respect to this proposal for decision, provided that this proposal for decision is consistent in all material respects with the draft proposal for decision filed by Entergy VY on January 12, 2005.<sup>10</sup> I recommend that the Board adopt the findings, conclusions, and recommendations detailed above, and issue an order and certificate of public good approving the Project.

Dated at Montpelier, Vermont, this 2<sup>nd</sup> day of March, 2005.

s/William B. Jordan  
William B. Jordan  
Hearing Officer

---

10. This proposal for decision is consistent in all material respects with the draft proposal for decision.

## **VI. ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the State of Vermont Public Service Board that:

1. The findings, conclusions, and recommendations of the Hearing Officer are adopted.
2. The Settlement Agreement between Entergy VY and NEC, dated November 5, 2004, is approved in its entirety.
3. Compliance with all terms of the Settlement Agreement is required.
4. The construction by Entergy VY of the proposed 452-space Outage Parking Area and other minor parking improvements, described in the Project Description of this Order, on the site of its electric generation station, the Vermont Yankee Nuclear Power Plant in Vernon, Vermont, in accordance with the evidence, plans and approvals submitted in the proceeding will promote the general good of the State of Vermont consistent with 30 V.S.A. § 248, and a certificate of public good shall be issued to allow such construction.
5. Construction and operation of the Project shall be in accordance with the revised plans and evidence submitted in this proceeding. Specifically, construction of the Outage Parking Area shall be in accordance with Exhibits Entergy-4, PB-17, and PB-18. Any material deviation from these plans or specifications must be approved by the Board.
6. The Settlement Agreement, effective as of November 4, 2004, between Entergy VY and the New England Coalition ("NEC") ("NEC Settlement Agreement") is hereby approved in its entirety. Under the terms of the NEC Settlement Agreement, Entergy VY shall:
  - (a) not install the northernmost light pole and fixture originally proposed to serve the Permanent Parking Area;
  - (b) make the following modifications to the lighting plan for the Outage Parking Area:
    - (i) the light fixtures shall be downcast into the Outage Parking Area,
    - (ii) the light fixtures shall be controlled by photo cells that will activate the lighting only during dusk or dark conditions, and

- (iii) individual disconnect switches shall be installed on each light pole, and only those lights necessary at any one time to illuminate the Outage Parking Area for parking, maintenance activity, or emergency purposes shall be used;
- (c) undertake good faith efforts to further adjust or modify any lighting that may prove to be egregiously intrusive to offsite viewing locations;
- (d) upon completion of construction of the Outage Parking Area, implement the Revised Planting Plan filed as Exhibit Entergy-5; and
- (e) reimburse NEC for costs associated with its intervention in this docket.

7. The Board has continuing jurisdiction to resolve any disputes arising under the NEC Settlement Agreement.

8. Entergy VY shall maintain the existing buffer of mature trees between the Project and the Connecticut River, and shall maintain the existing screen of trees between the Project and Governor Hunt Road.

Dated at Montpelier, Vermont, this 3<sup>rd</sup> day March, 2005.

<u>s/Michael H. Dworkin</u>	)	
	)	
	)	PUBLIC SERVICE
<u>s/David C. Coen</u>	)	
	)	BOARD
	)	
	)	OF VERMONT
<u>s/John D. Burke</u>	)	

OFFICE OF THE CLERK

FILED: March 3, 2005

ATTEST: s/Susan M. Hudson  
Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*